

**116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No.1911 of 2018 (O&M)
Date of decision : March 22, 2018**

Gurmail Singh

..... Petitioner

Versus

Hardev Singh @ Dev Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Anantdeep Singh Sandhu, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 07.12.2017 (Annexure P-6) passed by learned Civil Judge (Jr. Divn.), Moga, vide which an application filed under Order VII, Rule 11 read with Section 151 CPC, 1908, was dismissed.

It was claimed in the application that the earlier suit for partition was withdrawn without the permission of the Court. Therefore, the fresh suit is barred.

I am of the view that the provisions of Order XIII, Sub Rule 3 CPC, 1908, deal with the withdrawal of the suit without permission of the Court. In a suit for partition, the position may be different. Therefore, from the plaint itself, it cannot be said that the second suit for partition is barred. It is a question of fact, which is to be decided by the trial Court. As such, the plaint outrightly could not be rejected. Therefore, there is no illegality or infirmity in the impugned order.

Accordingly, the present revision petition is dismissed. Since the main revision petition is dismissed, therefore, the pending application, if any, also stands disposed of.

March 22, 2018

(KULDIP SINGH)
JUDGE

sarita

Whether speaking / reasoned Yes

Whether Reportable: No